

Serial No. 09/311,689
Group Art Unit: 1652

REMARKS / ARGUMENTS

Reconsideration of the present application is respectfully requested. Claims 9-25, 28-31, 54-59, 61, 63-67, 69-72, 76-87, and 96-99 are pending in the application. Claims 9-12, 14-19, 21-23, 25, 28-31, 54-59, 61, 63-67, 69, 70, 72, 76-85, 87, 96 and 97 are allowed. Claims 13, 20, 24, 71 and 86 are objected to. Claims 98 and 99 are rejected.

Claims 13, 20, 24, 71, and 86 have been amended to address objections raised by the Examiner. Claim 14 has been amended to correct a punctuation error. Claims 98 and 99 have been cancelled.

The specification has been amended on page 8 to address the objection raised by the Examiner.

No new matter has been added to the claims or specification by way of the amendments. It is respectfully requested that the amendments be entered.

Objections to the Specification

The specification is objected to for being confusing on page 8. The Examiner states: "Applicant's amendment to the specification does not clarify paragraph...the specification extensively discussed polypeptides from [these] organisms that have been modified, not the organisms themselves. Appropriate clarification is required."

The specification has been amended on page 8 to incorporate the Examiner's suggested wording. It is believed the amendment obviates the objection.

Objections to the Claims

Claims 13, 20, 24, 71, and 86 are objected to for improper punctuation. The Examiner states: "In claims 13 and 20, the proper structure for the alternative Markush language contains commas, and not semi-colons as pending, between the

Serial No. 09/311,689
Group Art Unit: 1652

members of the group. In Claims 24, 71, and 86, no punctuation between the two members of the group is appropriate. Appropriate correction is required."

Claims 13, 20, 24, 71, and 86 have been amended to correct punctuation as indicated by the Examiner. Additionally, it is noted claim 14 contained the same improper punctuation and has been amended consistent with the objected claims. It is believed the amendments place the claims in condition for allowance.

Rejections under 35 USC §112, first paragraph

Claims 98 and 99 are rejected under 35 USC §112, first paragraph, as containing new matter which was not described in the specification as originally filed.

The Office Action asserts: "Applicants argue that a limitation of '15-25 mole % lysine' in the claims is encompassed by a recitation of '15-35 % mole lysine' as originally filed.... A polypeptide with the range of 15-25 mole % lysine was not considered the invention at the time of filing; only a polypeptide with the range of 15-35% mole lysine was envisioned."

For reasons presented in the prior response, it is maintained that there is support in the specification for Claim 99. However, to further prosecution and not to limit the scope of the claimed invention, the claims have been amended to cancel claims 98 and 99. It is believed the amendment obviates the rejection.

Rejections under 35 USC §102

Claims 98 and 99 are rejected under 35 U.S.C. §102(b) as being anticipated by Kleber-Janke *et al.*

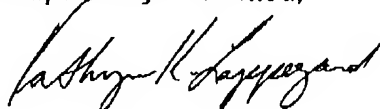
As noted herein, Claims 98 and 99 have been cancelled. It is believed the amendment obviates the rejection.

Serial No. 09/311,689
Group Art Unit: 1652

CONCLUSION

On the basis of the above amendments and remarks, reconsideration of the application and its allowance are respectfully requested.

Respectfully submitted,



Kathryn K. Lappegard
Agent for Applicant(s)
Registration No. 46,857

PIONEER HI-BRED INTERNATIONAL, INC.
Corporate Intellectual Property
7100 N.W. 62nd Avenue
P.O. Box 1000
Johnston, Iowa 50131-1000
Phone: (515) 253-5707
Facsimile: (515) 334-6883

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